IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

WILHELMINA LYLES	:	CIVIL ACTION
v.	:	
PHILADELPHIA GAS WORKS	:	NO. 05-207

MEMORANDUM

Bartle, C.J. February 7, 2006

Pro se plaintiff Wilhelmina Lyles has alleged that her employer Philadelphia Gas Works ("PGW") retaliated against her for filing a charge of age discrimination with the Pennsylvania Human Relations Commission ("PHRC") and the United States Equal Employment Opportunity Commission ("EEOC"). Before the court is the motion of defendant PGW for summary judgment.

I.

Rule 56(c) of the Federal Rules of Civil Procedure permits us to grant summary judgment only "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to summary judgment as a matter of law." Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986); see also Celotex Corp. v. Catrett, 477 U.S. 317 (1986). A dispute is genuine if the evidence is such that a reasonable jury could return a verdict for the non-moving party. See Anderson, at 254. We review all evidence and make all reasonable inferences from the

evidence in the light most favorable to the non-movant. See In re Flat Glass Antitrust Litig., 385 F.3d 350, 357 (3d Cir. 2004). The non-moving party may not rest upon mere allegations or denials of the moving party's pleadings but must set forth specific facts showing there is a genuine issue for trial. Lujan v. Nat'l Wildlife Fed'n, 497 U.S. 871, 888 (1990).

The following facts are either undisputed or viewed in the light most favorable to the plaintiff. On September 26, 2002, Lyles filed a charge with the PHRC and EEOC contending PGW discriminated against her on the basis of age.[1] On November 20, 2002 PGW suspended her for ten days allegedly for failing to obey legitimate orders from her superior. Between January 1, 2003 and July 25, 2003 Lyles worked only 31 of the 143 work days. She requested leave due to mental anguish and stress on May 8, 2003, but it was denied. On August 4, Lyles telephoned a different supervisor and again unsuccessfully sought leave. The next day, August 5, 2003, PGW dispatched two letters to Lyles at her home. The first stated that unless she reported to work on August 6, she would be terminated. After receiving this letter, Lyles telephoned PGW and left a voicemail in which she asked what she had to do to keep her job. In response, PGW had a second letter delivered to her house saying that she was required to return to

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1. In addition, on October 11, 2002 the union submitted a grievance on Lyles' behalf that referred to alleged harassment but did not mention age discrimination. Subsequently, Lyles filed a charge with the United States National Labor Relations Board alleging harassment and a complaint with PGW's EEO unit. The parties have not disclosed the results of these efforts.

work the next day or she would be fired. Lyles did not come to work on August 6, 2003 and was terminated.

On February 2, 2004, Lyles lodged a second charge with the PHRC and EEOC contending PGW fired her in retaliation for filing her previous charge. Two months later, on April 13, Lyles filed her first complaint in this court alleging that PGW discriminated against her on the basis of color and age. See Lyles v. Phila. Gas Works, Civ. A. No. 04-1561 (E.D. Pa.) ("Lyles I"). On July 9, 2004, the PHRC notified Lyles that her second charge was being closed administratively. She received her right-to-sue letter from the United States Department of Justice on January 7, 2005 and filed the instant action on January 18. Lyles v. PGW, Civ. A. No. 05-207 (E.D. Pa.) ("Lyles II"). Lyles made no effort to consolidate the two actions.

In a Memorandum and Order dated March 18, 2005, we granted PGW's motion for summary judgment in Lyles I. PGW maintains that it did not learn of Lyles II until May 2, 2005 when it was served with an appellate brief in Lyles I. PGW contends it is entitled to summary judgment on the ground that this action is barred by the doctrine of claim preclusion.

II.

"[A] final judgment on the merits of an action precludes the parties or their privies from relitigating issues that were or could have been raised in that action." Rivet v. Regions Bank of Louisiana, 522 U.S. 470, 473 (1998) (internal citation omitted). Claim preclusion requires: (1) a final

judgment on the merits in a prior suit involving; (2) the same parties or those in privity with those parties; and (3) a subsequent suit based on the same cause of action. Churchill v. Star Enterprises, 183 F.3d 184, 194 (3d Cir. 1999). The purpose of claim preclusion is to avoid piecemeal litigation of claims arising from the same events. See Board of Trustees of Trucking Employees of North Jersey Welfare Fund, Inc. v. Centra, 983 F.2d 495, 504 (3d Cir. 1992).

Our Court of Appeals has explained that "[c]ourts should not apply this conceptual test mechanically, but should focus on the central purpose of the doctrine, to require a plaintiff to present all claims arising out of the same occurrence in a single suit. Churchill, 183 F.3d at 194. In determining what is a cause of action for claim preclusion purposes, our Court of Appeals has instructed us to "take a broad view" and focus on the essential similarity of the underlying events giving rise to the various legal claims. See id.; United States v. Athlone Indus., Inc., 746 F.2d 977, 984 (3d Cir. 1984).

PGW obtained a final judgment on the merits in its favor in Lyles I. See Lyles v. Phila. Gas Works, Civ. A. No. 05-1561, 2005 WL 639729 (E.D. Pa. 2005). In addition, Lyles I involved the same plaintiff and defendant as this action. Id. Finally, this action is based on the same cause of action as Lyles I. In Lyles I, the plaintiff contended that PGW discriminated against her on the basis of age and color when it terminated her on August 6, 2003. In her second action, Lyles

alleges that PGW retaliated against when it fired her on August 6, 2003 for filing the charge with the PHRC and EEOC on September 26, 2002. The events underlying both suits allegedly caused her termination from employment at PGW on August 6, 2003.

Plaintiff was required to present in Lyles I all claims giving rise to her termination.[2] Instead, she effectively split her cause of action by bringing seriatim lawsuits invoking different legal theories "to seek redress ... for a single course of wrongful conduct." Churchill, 183 F.3d at 195. As a result, this pending action is barred by the doctrine of claim preclusion which is designed to prevent a party from obtaining two bites at the apple.

We will grant the motion of PGW for summary judgment.

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2. Even though her second administrative charge was pending at that time, Lyles could have taken steps to exhaust her administrative remedies while at the same time preserving her right to litigate in federal court. For example, she might have sought to have her first action stayed pending resolution of her second administrative charge or to have her lawsuits consolidated. See, e.g., Churchill, 183 F.3d at 190-92.

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ORDER

AND NOW, on this 7th day of February, 2006, for the reasons set forth in the accompanying Memorandum, it is hereby ORDERED that:

(1) the motion of defendant Philadelphia Gas Works for summary judgment is GRANTED; and

(2) judgment is entered in favor of defendant Philadelphia Gas Works and against plaintiff Wilhelmina Lyles.

BY THE COURT:

/s/ Harvey Bartle III
C.J.